

AMENDED IN SENATE JULY 17, 2001

AMENDED IN SENATE JULY 3, 2001

AMENDED IN ASSEMBLY MAY 14, 2001

AMENDED IN ASSEMBLY APRIL 24, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1719

**Introduced by Committee on Higher Education (Alquist (Chair),
Richman (Vice Chair), Jackson, Liu, Lowenthal, Matthews,
Negrete McLeod, Robert Pacheco, Strickland, and Wyman)**

March 14, 2001

An act to amend Sections 89005.5, 89036, 89045, and 89048 of the Education Code, to repeal Section 18598 of the Government Code, and to amend Sections 10430, 10705, 10710, and 10760 of the Public Contract Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1719, as amended, Committee on Higher Education. Public postsecondary education.

(1) Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. ~~Under Existing law provides that the name~~ “California State University” is the property of the state, and prohibits the use of this name or any abbreviation of it or any name of which these

words are a part without the permission of the trustees. Violation of this provision is punishable as a misdemeanor.

This bill would specify that the names of various campuses of the California State University, and abbreviations of those names, are the property of the state. The bill would also specify that permission of the trustees is required before any of these names may be used for any commercial purpose. This bill would impose a state-mandated local program by expanding the scope of a crime.

(2) Under existing law, the trustees are authorized to enter into agreements with any public or private agency, officer, or institution for the performance of acts or for the furnishing of services, facilities, materials, or equipment.

This bill would require the trustees to prescribe policies and procedures for the acquisition of services, facilities, materials, goods, supplies, or equipment. The bill would also require these policies and procedures for the acquisition of materials, goods, supplies, or equipment to include competitive means for obtaining best value, and would authorize the policies and procedures to include financing arrangements.

~~(2)~~

(3) Existing law requires the Trustees of the California State University to establish an internal audit staff with prescribed duties, including auditing, reviewing, cost and systems analysis, analyzing, and recommending operating procedures for the university. Existing law also requires the university's internal audit staff to perform audits, at least once every 5 years, of the activities of the university pursuant to specified statutes.

This bill would add a reference to the statute authorizing the trustees to enter into agreements for the performance of acts or for the furnishing of services, facilities, materials, or equipment. The bill would delete references to 3 of these statutes contained in the Public Contract Code.

~~(3)~~

(4) Existing law authorizes the Trustees of the California State University to perform certain functions without prior approval of any other state department or agency when necessary to carry out the purposes of the university. These functions include the sale or exchange of personal property belonging to the university and the leasing of real property for the use of the university.



This bill would also authorize the trustees to lease personal property belonging to the university and to lease personal property for the use of the university.

~~(4)~~

(5) An existing provision of the Government Code defines “state civil service” to include all personnel appointed or employed at the state nautical school except personnel whose duties consist of instructing students or supervising instructional personnel and except for students enrolled at the school who are working part-time as student assistants.

This bill would delete this provision.

~~(5)~~

(6) Existing provisions of the Public Contract Code generally govern the procurement of materials, supplies, equipment, and services by state agencies. These provisions do not apply to the Regents of the University of California.

This bill would provide that these provisions also do not apply to the Trustees of the California State University.

~~(6)~~

(7) Existing law, known as the California State University Contract Law, provides, among other things, that, when, in the opinion of the Trustees of the California State University, the work does not require the application of that law, the trustees may carry out the project if the estimated cost does not exceed \$250,000.

This bill would instead provide that this estimated cost may not exceed the value of a minor capital outlay project for which, pursuant to a prescribed provision of the State Contract Act, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

~~(7)~~

(8) An existing provision of the California State University Contract Law prohibits the trustees from awarding annual contracts for repair or other repetitive work, or renovation or modification, on capital outlay projects where the total cost of the project exceeds \$250,000.

This bill would instead provide that this total cost may not exceed the value of a minor capital outlay project for which, pursuant to a prescribed provision of the State Contract Act, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

~~(8)~~

(9) An existing provision of the California State University Contract Law requires the trustees to obtain specified financial information from prospective bidders for contracts estimated to exceed \$300,000.

This bill would raise that limit to \$400,000.

(10) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 89005.5 of the Education Code is*
 2 *amended to read:*
 3 89005.5. (a) ~~The name “California State University” is the~~
 4 ~~property of the state. No~~ (1) *All of the following names are the*
 5 *property of the state:*
 6 (A) *“California State University.”*
 7 (B) *The names of all educational institutions in the state with*
 8 *names containing the words “California State University.”*
 9 (C) *All of the following names:*
 10 (i) *“California Polytechnic State University, San Luis*
 11 *Obispo.”*
 12 (ii) *“California State Polytechnic University, Pomona.”*
 13 (iii) *“California Maritime Academy.”*
 14 (iv) *“Humboldt State University.”*
 15 (v) *“Sonoma State University.”*
 16 (vi) *“San Francisco State University.”*
 17 (vii) *“San Jose State University.”*
 18 (viii) *“San Diego State University.”*
 19 (D) *Abbreviations of names listed in subparagraphs (A), (B),*
 20 *and (C), including, but not necessarily limited to, all of the*
 21 *following:*
 22 (i) *“Cal State.”*
 23 (ii) *“Cal Maritime.”*
 24 (iii) *“Humboldt State.”*
 25 (iv) *“Sonoma State.”*

1 (v) “*San Francisco State.*”

2 (vi) “*San Jose State.*”

3 (vii) “*San Diego State.*”

4 (viii) “*Cal Poly.*”

5 (ix) “*CSU.*”

6 (2) No person shall, without the permission of the Trustees of
7 the California State University, use this name, or any abbreviation
8 of it or any name of which these words are a part, in any of the
9 following ways:

10 ~~(1)~~

11 (A) To designate any business, social, political, religious, or
12 other organization, including, but not limited to, any corporation,
13 firm, partnership, association, group, activity, or enterprise.

14 ~~(2)~~

15 (B) To imply, indicate or otherwise suggest that any ~~such~~
16 ~~product, service, or organization, or any product or service of such~~
17 ~~organization~~, is connected or affiliated with, or is endorsed,
18 favored, or supported by, or is opposed by the *Trustees of the*
19 *California State University or any educational institution*
20 *administered by the trustees. The permission of the trustees is*
21 *required before any name listed in this subdivision may be used for*
22 *any commercial purpose.*

23 ~~(3)~~

24 (C) To display, advertise, or announce this name publicly at, or
25 in connection with, any meeting, assembly, or demonstration, or
26 any propaganda, advertising, or promotional activity of any kind
27 which has for its purpose or any part of its purpose the support,
28 endorsement, advancement, opposition, or defeat of any strike,
29 lockout, or boycott or of any political, religious, sociological, or
30 economic movement, activity, or program.

31 (b) However, nothing in this section shall interfere with, or
32 restrict the right of, any person to make a true and accurate
33 statement of his or her present or former relationship or connection
34 with, his or her employment by, or his or her enrollment in, the
35 California State University in the course of stating his or her
36 experience or qualifications for any academic, governmental,
37 business, or professional credit or enrollment, or in connection
38 with any academic, governmental, professional, or other
39 employment whatsoever.

1 (c) Every person violating ~~the provisions of~~ this section is
2 guilty of a misdemeanor.

3 SEC. 2. Section 89036 of the Education Code is amended to
4 read:

5 89036. (a) (1) The trustees may enter into agreements with
6 any public or private agency, officer, person, or institution,
7 corporation, association, or foundation for the performance of acts
8 or for the furnishing of services, facilities, materials, goods,
9 supplies, or equipment by or for the trustees or for the joint
10 performance of an act or function or the joint furnishing of services
11 and facilities by the trustees and the other party to the agreement.

12 (2) Notwithstanding any other provision of law, the trustees
13 shall prescribe policies and procedures for the acquisition of
14 services, facilities, materials, goods, supplies, or equipment. The
15 policies and procedures of the trustees for the acquisition of
16 materials, goods, supplies, or equipment shall include competitive
17 means for obtaining best value while complying with legislative
18 intent regarding competitive bids or proposals as it is expressed in
19 Article 3 (commencing with Section 10300) of Chapter 2 of Part
20 2 of Division 2 of the Public Contract Code, and may include the
21 use of financing arrangements.

22 (3) The trustees may enter into agreements with the federal
23 government or any agency thereof in accordance with the
24 procedures prescribed by the federal government or agency in
25 order to receive the benefits of any federal statute extending
26 benefits to the California State University or to California State
27 University students, including, but not necessarily limited to, both
28 of the following:

29 (A) Agreements with any agency of the federal government for
30 the education of persons in the service of the federal government.

31 (B) Agreements with any agency of the federal government for
32 the education of veterans. These agreements shall provide for
33 payment of the maximum amount permitted under the act, or acts,
34 of Congress under which the agreement is entered into.

35 (4) Notwithstanding any other provision of law, the trustees
36 have all power necessary to perform any acts, and comply with
37 conditions, required or imposed by the federal government in
38 order to receive the benefits. The trustees are vested with all
39 necessary power and authority to cooperate with any agency of the

1 federal government in the administration of any applicable act of
2 Congress and rules and regulations adopted thereunder.

3 (b) Notwithstanding any other provision of law, the trustees
4 have all power necessary to award contracts to one or more
5 contractors, at any one or more campuses, for the collection of
6 delinquent education loans required to be repaid under federal law.

7 ~~SEC. 2.—~~

8 *SEC. 3.* Section 89045 of the Education Code is amended to
9 read:

10 89045. (a) The trustees shall establish an internal audit staff,
11 which shall include the staff positions authorized for internal
12 auditing. The internal auditing staff shall report directly to the
13 trustees, and shall be available for consultation with any audit
14 committee of the trustees which may be established by the trustees.

15 (b) The duties of the internal audit staff shall include, but shall
16 not necessarily be limited to, auditing, reviewing, cost and systems
17 analysis, analyzing, and recommending operating procedures for
18 the California State University.

19 (c) Management audits shall be made to determine the
20 effectiveness and efficiency of the organization, operation, and
21 procedures of each state university, each auxiliary organization,
22 and the office of the chancellor. Officials and employees of each
23 state university, each auxiliary organization, and the office of the
24 chancellor shall furnish all books, papers, contracts, management
25 charts, and related information necessary for management audits.

26 (d) In addition, the internal audit staff shall perform audits, at
27 least once every five years, of the activities of the California State
28 University pursuant to Sections 89031.5, 89036, 89046, and
29 89048 and Section 11007.7 of the Government Code.

30 ~~SEC. 3.—~~

31 *SEC. 4.* Section 89048 of the Education Code is amended to
32 read:

33 89048. Notwithstanding Article 1 (commencing with Section
34 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section
35 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with
36 Section 15850), of Division 3 of Title 2 of the Government Code,
37 or any other provision of law, the trustees may perform the
38 following functions, without prior approval of any other state
39 department or agency, when necessary to carry out the purposes of
40 the California State University:

1 (a) Acquire easements or rights-of-way necessary for the
2 proper utilization of real property of the California State
3 University.

4 (b) Grant and convey in the name of the California State
5 University easements and rights-of-way across property
6 belonging to the California State University subject to the
7 conditions, limitations, restrictions, and reservations the trustees
8 determine are in the best interests of the California State
9 University.

10 (c) Quitclaim the right, title, and interest of the California State
11 University in and to easements and rights-of-way owned by the
12 California State University which the trustees determine are no
13 longer needed for California State University purposes.

14 (d) Sell, lease, or exchange any personal property belonging to
15 the California State University, if the trustees determine that the
16 sale, lease, or exchange is in the best interests of the California
17 State University. Transactions under this subdivision shall be for
18 consideration based on fair market values.

19 (e) Lease any real or personal property for the use of the
20 California State University.

21 (f) Sell, exchange, or otherwise dispose of real property
22 acquired from revenues generated by the parking and housing
23 programs in the California State University, to a recognized
24 auxiliary organization of the California State University, as
25 authorized by Section 89901. The sale, exchange, or other
26 disposition shall be consistent with the requirements of any
27 indenture or other agreement to which the trustees are a party.
28 Transactions under this subdivision shall be for consideration
29 based on the fair market value of the property to be sold,
30 exchanged, or otherwise disposed of, and shall be subject to the
31 following conditions:

32 (1) Where more than one auxiliary organization of the
33 California State University expresses interest in acquiring the
34 property, the sale, exchange, or other form of disposal shall be
35 awarded to the highest responsible bidder. The net present value
36 of the projected proceeds of a bid shall be used to determine the
37 highest responsible bidder, where applicable.

38 (2) When the real property for sale is an improvement situated
39 on land purchased with funds not generated by the parking or
40 housing programs of the California State University, rights to the

land upon which the improvement is situated, and access thereto, shall be leased and not sold or exchanged to the acquiring party.

(3) When the real property for sale includes land purchased with funds generated by the parking or housing programs of the California State University, the property shall have at least one border with property that is not owned by the California State University.

(g) Acquire, when it is in the best interests of the state, real property with revenues generated by the parking and housing programs of the California State University.

(1) Any acquisition of real property carried out pursuant to this subdivision shall be reported annually to the Joint Legislative Budget Committee and to the Department of Finance by January 5 of each year.

(2) Any acquisition carried out pursuant to this subdivision shall include relocation assistance, when appropriate.

~~SEC. 4.—~~

SEC. 5. Section 18598 of the Government Code is repealed.

~~SEC. 5.—~~

SEC. 6. Section 10430 of the Public Contract Code is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California and the Trustees of the California State University.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from Section 10295. However, the Board of Governors of the California Community Colleges shall be governed by this chapter, except as provided in Sections 10295, 10335, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

~~SEC. 6.—~~

SEC. 7. Section 10705 of the Public Contract Code is amended to read:

10705. (a) When, in the opinion of the trustees, the work does not require the application of all of the provisions of this chapter in connection therewith, the trustees may carry out the project pursuant to this section if the estimated cost does not exceed the value of a minor capital outlay project for which, pursuant to Section 10108, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

(b) If the estimated total cost of any construction project or work carried out under this section exceeds five thousand dollars (\$5,000), the trustees shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The trustees may carry out work in excess of five thousand dollars (\$5,000) under this section by day labor if the trustees deem that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state, but the amount of work performed by day labor under this section shall not exceed the sum of twenty thousand dollars (\$20,000).

~~SEC. 7.—~~

SEC. 8. Section 10710 of the Public Contract Code is amended to read:

10710. (a) Notwithstanding any other provisions of this chapter, the trustees may award annual contracts that do not exceed three million dollars (\$3,000,000) for repair or other repetitive work, or renovation or modification, to be done according to unit prices. The contracts shall be awarded to the lowest responsible bidder, and shall be based primarily on plans and specifications for typical work. No project shall be performed under a contract of this type except by order of the trustees. No annual contracts may be

awarded under these provisions for capital outlay projects, where the total cost of the project exceeds the value of a minor capital outlay project for which, pursuant to Section 10108, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

(b) For purposes of this section, “unit price” means the amount paid for a single unit of an item of work, and “typical work” means a work description applicable universally or applicable to a large number of individual projects, as distinguished from work specifically described with respect to an individual project.

~~SEC. 8.~~

SEC. 9. Section 10760 of the Public Contract Code is amended to read:

10760. The trustees may, and on contracts the estimated cost of which exceeds four hundred thousand dollars (\$400,000) the trustees shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder’s financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

SEC. 10. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*